

### **REMARKS**

The Applicant has carefully considered the Office action dated March 10, 2010. Claims 16-34 were rejected under 35 USC §251 as being improper for recapture of subject matter allegedly surrendered in the original application for the patent upon which the present reissue is based. The Applicant respectfully traverses the rejections and submits that all claims are in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested.

#### **I. Claim Objection**

The Office action objected to claim 11 because of the amendment of [conveyor,] to conveyor. The Applicant has removed this amendment from claim 11, and respectfully requests withdrawal of the claim objection therefrom.

#### **II. Reissue Oath/Declaration**

The Applicant respectfully requests deferral of the requirement to submit a reissue oath/declaration under 37 CFR § 1.175(b)(1) until all other objections and rejections have been withdrawn.

#### **III. Claim Amendments**

By way of this response, the Applicant has placed the pending claims in the form suggested by the examiner in connection with the rejection under the recapture rule. In addition to revising the independent claims as suggested by the examiner, the Applicant has also added dependent claims 21, 28, 33, and 38. As a result, previous independent claim 21 corresponds to present independent claim 22, previous independent claim 27 corresponds to present independent claim 29, and previous independent claim 31 corresponds to present independent claim 34.

#### **IV. The Rejections under the Recapture Rule**

Claims 16-34 do not improperly recapture subject matter previously surrendered as defined by the recapture rule.

Turning to the changes to the new independent claims, independent claim 16 now incorporates the last claim element from claim 1 beginning with "a control system operatively connected to..." Independent claim 22 now incorporates the last claim element from claim 6 beginning with "a primary controller for activating..." Independent claim 29 now incorporates the last claim element from claim 12 beginning with "controlling the feeder

boxes to..." Independent claim 34 incorporates the last claim element from claim 6 beginning with "a primary controller for activating..."

**V. Conclusion**

In view of the foregoing, the Applicant respectfully submits that this application is in condition for allowance and requests an early favorable notification to that effect. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if any such statement should become relevant by appearing in a rejection of any current or future claim).

The Commissioner is hereby authorized to charge any deficiency in the amount submitted or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455. Please refund any overpayment to Hanley, Flight & Zimmerman, LLC, at the address below.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicant requests that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

**June 9, 2010**

Respectfully submitted,

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